

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
April 24, 2019

The Highland Board of Zoning Appeals met on April 24, 2019 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

ROLL CALL: Present were Board Members Mr. Martini, Mr. Helms, Mr. Grzymiski, Mr. Leep and Mrs. Murovic. Also present were Town Council Liaison, Mr. Steve Wagner, Building Commissioner/Zoning Administrator, Mr. Ken Mika and Town Attorney, Mr. Jared Tauber.

MINUTES: The minutes of the March 27, 2019 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be May 22, 2019 at 6:30 p.m.

COMMUNICATIONS: None

Old Business: Approval of Findings of Fact for Angela & Chris Ramirez, 3547 Wirth Road, Highland, IN, requesting a variance to replace a section of fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall

interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Martini motioned to approve the Findings of Fact for Angela & Chris Ramirez. Mr. Grzymiski seconded and it unanimously passed with a roll call vote of 5 – 0.

New Business: Public Hearing for Sheryle & Trevor Bozich of Wicker View Rentals, 8629 Osborn Road, Highland, IN 46322, requesting a use variance to maintain residential use of property, even if rebuilding was necessary in the event of a fire or natural disaster. {HMC 18.90.050 (c) (4)} Non-Conforming Uses of Land and Structures. When a nonconforming use of a structure, or of a structure and land in combination, is discontinued or abandoned for more than one year (except when government action impedes access to the premises), the structures, or structures and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 5-3-1.

Sheryle Bozich, 8629 Osborn Road, stepped forward and introduced herself. She then handed out photos that showed the property before and after the renovations they completed when they purchased the property. She explained that she was here for a use variance for the property that she and her son, Trevor, purchased on December 4th, 2018. She stated the property was distressed when they purchased it and that the property has two units, a front and a rear. There was a tenant in the front property when they purchased it, but the rear unit was vacant. She explained that they purchased the property and went with a private lender so they could get a rehab loan. They re-sided the front property, put on new gutters, new soffits and added new windows. They then updated the electric in the back property because it was a fire-hazard when it was purchased. They re-surfaced the floors in the rear, added new gutters and soffits and painted. She stated the rear unit is now occupied and they are happy with the tenant.

When they went to pursue a conventional loan, they were not able to obtain the loan due to the fact that the area is in a business zone and could not be rebuilt as a residence in the event that it were destroyed more than 50%, and it would revert back to business zone only. The only loan they could get would be at a very high interest rate, and this would not be economical for them. They were hoping to get the variance, which would guarantee them the 30 year residential loan at a much lower interest rate, so their investment would be a sound one for them. She then stated that they fully intended to maintain and keep up the property and that they wanted to help improve the town and

help keep this area of Highland looking the best it could and bring value to Highland. She also pointed out that there are several neighboring residences in the area. Mrs. Murovic then opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the Board.

Mr. Martini commented that the work that had been done by Sheryl Bozich was very impressive and that the before and after photos showed huge improvements.

Mr. Leep asked Ms. Bozich if she was interested in using the property as a multi-unit property. She clarified that they had no intention of making this property in multi-units, they just wanted the property to be maintained as a residence with 2 units for renting to single families.

Mr. Mika clarified that the use variance would allow the residential use in an area where the zoning is different than what is currently allowed for. He stated that in this case, there was no lapse in the structure not being lived in for more than a year and it obviously didn't sustain fire or natural disaster that destroyed 50% or more. This case is similar to many others that the owners are pursuing the use variance to continue their financing. He also pointed out that if the Bozich's were to be granted the use variance and there was any indication that they intended to use the property for multi-unit housing, that it would not be permitted in that zone, whether the use variance was granted or not.

Mrs. Murovic asked Sheryl Bozich to state her hardship. Ms. Bozich stated that they would not be able to get the conventional 30 year loan they needed in order to continue to bring in some income for themselves and also continue to maintain the property in its current state. If they had to go with a high interest rate loan, they would not be able to do these things. She then stated that selling the property would be difficult without the variance and also mentioned that they had no intentions of selling it at this time. She stated that they just wanted to keep the property as it is if anything were to happen in the future. She summed it up by saying that the rehab loan, which was high-interest, had to be paid back very soon. Without the variance, they would have a hard time paying that back and another high-interest loan they would have to take out to finance. She pointed out that they had increased the property value with their renovations from \$105,000 to \$200,000 and they were going to actively maintain the property in its current state.

Mr. Helms made a motion to make a favorable recommendation to the Town Council. Mr. Martini seconded and it unanimously passed with a roll call vote of 5 – 0.

New Business: Public Hearing for Jose Arellano of Trebol, LLC, 2125 Ridgewood Street, Highland, IN 46322, requesting a use variance to maintain residential use of property at 2519 Highway Avenue, Highland, IN 46322, even if rebuilding was necessary in the event of a fire or natural disaster. {HMC 18.90.050 (c) (4)} Non-Conforming Uses of Land and Structures. When a nonconforming use of a structure, or of a structure and land in combination, is discontinued or abandoned for more than one year (except when government action impedes access to the premises), the structures, or

structures and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 5-3-1.

Mr. Jose Arellano stepped forward and introduced himself. He stated that the Arellano family had lived in Highland for 12 – 13 years and he attended middle school and high school in Highland. He would represent their company Trebol, LLC, along with his father, who owned the company. He thanked the Board for allowing them to attend the meeting and handed out some printed photos of the properties in question. Mr. Arellano stated that they were pursuing two use variances and had purchased the properties. He stated that as of the date of the meeting, they had not made any improvements to the properties, but intended to do so. They wanted to be granted the use variances to make sure they could rent the properties before they renovated them. He also showed photos from his phone showing other properties that they had renovated in Hammond and East Chicago to show the ability of their work. Mr. Arellano said that they were interested in improving the property so they could help improve Highland. He also stated that their intent was to rent out the properties after it they were renovated, but the first step was to obtain the use variances.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the board.

Mr. Helms asked if Trebol, LLC was the contractor or the sub-contractor. Mr. Arellano responded that they will sub-contract the work out to their licensed contractors. Mr. Helms then asked if they were experienced in the work they did. Mr. Arellano replied that they were.

Mr. Mika clarified that the two properties that the Arellano's were pursuing use variances for had been vacant for at least a few years. They were legal non-conforming and truly fell into the B-2 business district zone. He agreed that these two properties either had to be fixed up soon, or torn down. He also made it clear that all work done at these two properties had to be carried out by licensed contractors and all the respective permits also had to be pulled for any work that would be done.

Mr. Arellano stated that would be nothing new to their company and they would definitely pull all the proper permits for any jobs they were involved in.

Mrs. Murovic confirmed with Mr. Arellano that the two properties in question would be used as single family residences and Mr. Arellano confirmed this fact.

Mr. Helms asked what the hardship was that the Arellano's were claiming, and asked if it was that they would not be able to do business if they were not granted the use variance,

due to the fact that the properties had already been purchased. Mr. Arellano agreed that this was accurate.

Mr. Helms motioned to grant the use variance and give a favorable recommendation to the Town Council. Mr. Martini seconded and it unanimously passed with a roll call vote of 5 – 0.

New Business: Public Hearing for Jose Arellano of Trebol, LLC, 2125 Ridgewood Street, Highland, IN 46322, requesting a use variance to maintain residential use of property at 2527 Highway Avenue, Highland, IN 46322, even if rebuilding was necessary in the event of a fire or natural disaster. {HMC 18.90.050 (c) (4)} Non-Conforming Uses of Land and Structures. When a nonconforming use of a structure, or of a structure and land in combination, is discontinued or abandoned for more than one year (except when government action impedes access to the premises), the structures, or structures and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 5-3-1.

Mr. Helms motioned to grant the use variance and give a favorable recommendation to the Town Council. Mr. Martini seconded and it unanimously passed with a roll call vote of 5 – 0.

New Business: Public Hearing for Steven & Jacqueline Keller, 2017 Azalea Drive, Highland, IN 46322, requesting a use variance for a childcare facility located at 2617 45th Street, Highland, IN 46322. {HMC 18.35.040} Permitted uses in a B-1 District do not include daycare.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 5-3-1.

Mr. Steven and Mrs. Jacqueline Keller stepped forward and introduced themselves and stated their address of 2017 Azalea Drive, Highland, IN. They proceeded to hand out to the Board members a preliminary site plan of their proposed child care facility located at 2617 45th Street in Highland.

Mr. Keller stated that they were attending the meeting tonight to request a Use Variance for the property in order to use it as a child care facility, Spring Ahead Children's Academy, and that it was currently in use as a chiropractic facility. He also stated that they planned to do interior & exterior remodeling, as well as create a playground to the north side that would be fenced-in with concrete pylons as added protection. He stated the Keller's had lived in Highland since 2010 and that he ran a construction company.

Mrs. Keller stated that she taught high school math at Joliet West High School and had been teaching for 15 years. She said they had three children under the age of 5 and as they had been establishing their family, she had started to gravitate more towards early childhood development. She went back to school and obtained her administration certificate in early childhood development so she could run her own daycare facility. She stated she felt her husband Steve and herself were the perfect match, he was in construction and she was in education, so why not bring a safe, secure, curriculum driven, loving daycare facility to the community.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the Board.

Mr. Helms asked if Mrs. Keller was currently licensed to run and work in a daycare facility. She responded that yes, she had obtained her director's credentials. Mr. Helms then stated that from his understanding the licensing, staffing and physical facility requirements were quite rigorous.

Mr. Keller stated they did not currently have plans drawn out for the building, due to the cost involved. They had, however, obtained the site plan from an engineering company and had made an offer on the property that had been accepted, contingent on the Town allowing them to use the building as a childcare facility.

Mrs. Keller stated that she had her Bachelors and Masters degrees in education. To make sure they were serious about this venture, after the birth of their 2nd child, they decided to take a trip down to Indianapolis to go through an orientation program to see all that would be involved in pursuing this dream. She knew she would have to go back to school, so wanted to be familiar with all that would be expected of her. She said that everything felt very natural and they discovered that did want to make it work. She continued teaching and after their 3rd child, she went to school to get her administrative certificate. She stated that her husband found this property that they feel is perfect, and that they are planning to use the entire building, which they have an accepted offer on, for the childcare facility only.

Mr. Mika asked for clarification purposed that they would be purchasing the entire building and they would be using the entire building for the childcare facility. Mr. Keller responded that was correct. Mr. Mika then asked if there was a detail for the playground area they were proposing. Mr. Keller responded that they did not yet have a detailed drawing, but pointed out on the site plan where the area would be located, and stated that the area would be 60' x 60', which was the required amount for the number of kids they planned to have. Mr. Mika pointed out that the Board should be taking into consideration the safety aspects of that, would it be fenced in, it cannot exceed height of 6', exiting areas had to be addressed, etc. Also, vehicular traffic through ingress-egress areas had to be addressed and there would have to be protection that was more than what a plain fence would provide.

Mr. Keller said that they had discussed this issue with the engineers and had come up with concrete pylons in addition to the 6' vinyl fence. He also stated that the traffic flow would follow a certain route. There was an ingress coming from 45th that should only be following to the north, following the alley back to the east and out on to Gordon Drive. He stated that this would be the safest route in and out of this facility. They would make this route clear to their staff as well as the parents that would be dropping off children to the facility. Mrs. Murovic confirmed that this would be a one-way direction. Mr. Keller agreed that it would. Mr. Keller stated that it was described to him by the engineers that this flow was the way the parking lot had been designed for all the neighboring properties in that area and that, again, they would do their best to instruct anyone associated with their facility of this traffic flow for entering and exiting the property.

Mr. Mika stated that as indicated on their site plan, the arrows show that it is an egress easement that would potentially still allow traffic to flow, no matter how it is currently flowing, through the area, whether it is within that legal subdivision or the one to the east. Mr. Mika then asked if the Kellers had their architect compare the zoning requirement for parking spaces for this type of an occupancy. Mr. Keller responded that they had and that the maximum occupancy for the square footage of this building would be 84 children, although they did not plan on having that amount of kids. Mr. Keller stated that the engineer said that the amount of spaces that would be available after the play area spots were eliminated would be 20 spaces. The Keller's again stated that the potential maximum amount of children enrolled at the facility would be 84, but they did not plan on having that amount, and that it would be less.

Mr. Mika stated that the zoning ordinance requirements for parking would have to be looked at and that they would have to make sure that the number that is required is being met. He then stated that if they are not met, it would require another variance. Mr. Keller stated that the parking to the east was set up as community parking for all the neighboring properties. Mr. Mika pointed out that the only parking being addressed was on their specific property and any other spaces that were utilized on the neighboring properties would require permission from those property owners.

Mr. Mika then stated that this building code for occupancy was set up as a business or a B or a mercantile M. By changing to a daycare, that changes the building code occupancy classification to an E. The Keller's will have to have that drawn up and file it as a change in occupancy before any permits would be able to be issued. Mrs. Murovic asked if they would need a State Design Release in this case. Mr. Mika said that yes, a CDR would be needed.

Mrs. Murovic asked if the Keller's anticipated maxing out at 8 employees and 20 spaces. Mr. Keller replied this was correct. She then asked Mr. Mika if the ingress-egress areas indicated on the site plan were for everyone, or if they could ever be blocked off in the future. Mr. Mika replied that they were not legal streets, and that there would be an agreement in place for the access areas to these properties. Mr. Keller stated that the ingress-egress easements were defined in the property and accessible to all in the subdivision. He also stated that they have noticed it to be useful and not very busy. Mrs.

Murovic then asked if there was an area for drop off of children. Mr. Keller stated that they did and it was on the east side of the building, it was an atrium.

Mr. Helms asked if the Keller's had researched the market for the need in the area for this type of facility. Mrs. Keller responded that she had, and had found that there is great need for care in the area, and many of the current facilities were full or had waiting lists. She felt that the area was growing and the need would only increase in the future.

Mr. Mika pointed out that 45th Street was a very heavily traveled street and if the Keller's intended traffic to come in from 45th Street, they should not exit onto that street due the potential problems with speed of traffic and the proximity of the railroad tracks. Mr. Keller said that he felt the purpose of the ingress-egress areas were because of that fact and designed to move traffic further from the tracks to avoid potential problems.

Mrs. Murovic asked if the subdivision behind the property in question was residential. Mr. Mika replied that it was not, it was also commercial.

Mr. Keller stated that they had been searching for the right property for some time and felt that this one would work well for them. He also stated that being in the construction business, he felt that he could add a lot of curb appeal to the property with the renovations they planned to do.

Mr. Helms asked if they could make their recommendation with contingencies regarding the issues Mr. Mika had addressed, regarding parking spaces and zoning changes. Mr. Tauber responded that the Keller's would have to comply with the codes and if they did not, they would have to come back in front of the Board for developmental variances.

Mr. Helms motioned to give a favorable recommendation to the Town Council on the Use Variance. Mr. Martini seconded and it unanimously passed with a roll call vote of 5 – 0.

New Business: Public Hearing for Diana Rodriguez, 8830 Idlewild Avenue, Highland, IN 46322, requesting a variance to exceed accessory structure square footage allowance by 222 square feet. {HMC 18.05.060 (F) (5)} In zoning district R-1A, R-1, R-2 or R-3, the summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 5-3-1.

Mrs. Diana Rodriguez, 8830 Idlewild Avenue, stepped forward and introduced herself and stated her address. She explained that she was seeking a variance to allow an addition to her current garage that would exceed the total accessory allowance by 222 square feet, due to the fact that her current garage was 602 square feet, the addition

proposed was 340 square feet and the total allowed accessory structure was 720 square feet. She went on to state that they currently owned 3 vehicles and she did not like any vehicles parked in front of her house or on her driveway. She wanted to use the garage for parking.

Mr. Helms asked if she was sure that the addition would not be closer than 5 feet from the rear or side property lines. She responded that she was sure it would not be.

Mrs. Rodriguez stated that it was a beautiful piece of property and that they just wanted to enhance it. Mr. Leep asked if the exterior of the new addition would match the other garage and house. Mrs. Rodriguez responded that it would. Mrs. Murovic asked if there would be a back garage door. Mrs. Rodriguez responded that they have a tractor for the back yard and the door was for easy access for that equipment.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she closed the public hearing and brought the discussion back to the Board.

Mr. Helms motioned to grant the variance in favor of the petitioner. Mr. Martini seconded and it unanimously passed with a roll call vote of 5 – 0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzymski Second: Mr. Helms Time: 7:22 p.m.